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SUBJECT: December 2008 meeting of the Working Party for the WTO
Accession of Azerbaijan

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¶1. (U) Summary. The sixth Working Party Meeting on Azerbaijan's Accession to the World Trade Organization (WTO), held on December 11 in Geneva, was widely attended by other WTO Members and highlighted the renewed energy shown by Azerbaijan in a number of areas. Prior to the meeting, Azerbaijan had submitted a Legislative Checklist, a TRIPs checklist, responses to Questions and Answers, and new information on agriculture supports and export subsidies. The responses to Questions and Answers, in particular, allowed the Secretariat to draft a Factual Summary of the trade regime in Azerbaijan. In the meeting, the United States and the European Communities (EC) posed numerous questions on the summary. Further questions are to be submitted to the Secretariat by January 23. After appropriate responses are drafted by Azerbaijan and made available to WTO Members, the next Working Party will be scheduled. We project that this will occur sometime in the first half of 2009. A plurilateral on agriculture was not held during this meeting because agriculture negotiators from many delegations were engaged on Doha Round-related work. The Chairman Lewalter suggested that that an agriculture plurilateral take place before the next WP meeting. End Summary.

Report on Bilateral Goods and Services Negotiations

¶2. (U) Azeri Deputy Foreign Minister Mahmud Mamed-Khuliev reported that Azerbaijan is intensifying its efforts to diversify its non-oil sector and increasing its investment in infrastructure, especially in light of the current financial crisis. He indicated that his delegation has stepped up bilateral negotiations. The United States reported on its meeting with Azerbaijan on market access in November and noted that while progress was made, there is still a significant distance to go on both goods and services. (Note: See paragraph 9 for additional information on the U.S. bilateral. End note) The European Communities noted the bilateral goods and services meeting that it held with Azerbaijan on December 9th in Brussels. Brazil, India, Japan, Korea and Norway signaled that they had recently met with Azerbaijan on the margins of the WP meeting, or were planning to. Ukraine said it was initiating bilateral negotiations. Pakistan spoke up generally in support of Azerbaijan's accession on appropriately flexible terms. Paraguay, as leader of the landlocked developing countries group, asked that Members take into consideration Azerbaijan's geographical situation, noting that trade transaction and transport costs for such countries tend to exceed those of other countries. The Chairman exhorted Members to continue to advance bilateral efforts in parallel with the discussion of Azerbaijan's trade regime.

Legislative Action plan

¶3. (U) Deputy Minister Mamed-Khuliev said that Azerbaijan is close to full implementation of its legislative action plan. Some measures, including four (unspecified) major acts, have already been adapted by parliament. He said that a Presidential decree on additional measures requiring legal action is being prepared, and

that remaining draft regulations and legislation are moving to an inter-governmental review. He asserted that only one normative act, the Law on Tobacco, is still in process of preparation. He expressed gratitude for U.S. technical assistance in the preparation of laws. The United States and European Communities noted a number of areas where we look forward to receiving additional legislation, for example, the new Customs Code and revised Customs Tariff law. It became clear in the ensuing discussion of the factual summary that there are a number of areas where legislation still is required. The Chairman encouraged Azerbaijan to continue to update its legislative action plan on a rolling basis to show the status of documents that are being drafted, considered, and approved.

Examination of the Factual Summary

14. (U) The United States and European Communities posed numerous questions throughout all sections of the factual summary and indicated that they would submit specific questions in writing, as well. The Azeri delegation's ability to clarify technical questions on the spot during the meeting was limited, although attempts by Azeri technical experts to provide answers were somewhat more constructive than the attempts during the May 2008 Working Party meeting. The written responses to the Questions and Answers that Azerbaijan provided prior to the meeting tended to be much clearer and forward leaning in terms of showing a willingness to resolve specific problems.

15. (U) The role of state-trading enterprises and commercial and natural monopolies, and the possibilities for privatization of such entities, requires much more documentation and explanation by the Azeri side. Azerbaijan was able to clarify the status of several entities that are prohibited from privatization as well as the status of various health and pharmaceutical entities. Similarly, regarding price controls, Azeri officials were able to describe the administrative process for making decisions on pricing, but further detailed questions went unanswered and will require follow-up. The Azeri side did not answer our questions about whether or not IT and telecom goods containing commercial grade encryption are covered by licensing procedures, despite follow-up questions from the Chairman.

The United States and European Communities urged Azerbaijan to elaborate the part of the summary dealing with the powers of executive, legislative and judicial branches of government and to clarify hierarchy and appeal procedures. Azerbaijan confirmed that the new draft law on customs valuation will address appeal procedures.

16. (U) The United States urged Azerbaijan to bind at zero other duties and charges (currently applied at zero) and raised continuing concerns about WTO-inconsistency of motor transport duties. The US and EC both raised concerns about export taxes on scrap and said that the export ban on scrap metal must be removed. Azerbaijan did not respond directly on these points. On the VAT exemptions for domestic agriculture, Azerbaijan maintained that it currently needs this policy for development of the sector, and only indicated that it could look at its elimination in the future. On the status of trade remedies legislation, Azerbaijan responded that national legislation that is in conformity with WTO requirements is being prepared.

17. (U) Regarding the issue of agriculture export subsidies, capital-based representative Elmar Mammadov intervened to say that the factual summary needs to reflect Azerbaijan's request that as a landlocked vulnerable economy, the appropriate provisions of the Agreement on Agriculture (Article 9.4) should apply. On SPS, Canada and the United States pressed Azerbaijan to join Codex Alimentarius.

The Azeri team responded that appropriate legislation related to Codex is being considered at the Minister of Cabinet level, and noted that a draft decree on SPS is under development and can be shared with delegations. Generally, Members viewed the SPS section of the factual summary as underdeveloped. The United States called for a SPS Action Plan detailing when and how Azerbaijan plans to fully comply with the WTO SPS Agreement principles. On Intellectual Property Rights, the United States and the European Communities stated that they would submit specific questions regarding the Copyright Law, the Law on the Protection of Intellectual Property and Combating Piracy as well as questions regarding general enforcement efforts. [Note: This is not an exhaustive list of the questions posed by the U.S. delegate about the factual summary, but

it reflects the areas that were discussed the most among Members].

Chairman's conclusion

¶18. (U) Chairman Lewalter concluded that on the basis of questions and responses by Azerbaijan, the Secretariat will revise the factual summary. He acknowledged that the Azeri delegation had pressed for the Secretariat to move to draft the first Working Party report. The Chairman said that while the Secretariat updates the Factual Summary, it will assess, in consultation with other Members, whether any sections are technically ready for a working party text.

Next Steps from the U.S. Perspective / Prospects for 2009

¶19. (SBU) Despite good progress on multilateral documentation and a more productive Working Party meeting than was experienced in May 2008, Azerbaijan's lack of progress in market access is troublesome, and will have a significant bearing on Azerbaijan's accession process in 2009.

¶10. (SBU) The U.S. bilateral meeting with Azerbaijan in Washington, DC on November 18, 2008 confirmed little substantive improvement in Azerbaijan's goods and services market access offers. The greatest challenge to further progress on market access is Azerbaijan's inability, thus far, to define more narrowly its sensitivities, both in goods and services. In an effort to move the process forward, the U.S. has asked for more detailed (goods-specific and services-specific) information on Azerbaijan's sensitivities, which will enable USTR to consider possible flexibilities. However, Azerbaijan up to this point has listed entire sectors as highly sensitive. This is particularly true of agricultural market access, an area in which there has been no progress.

¶11. (SBU) Azerbaijan is now expected to provide revised market access offers based on U.S. feedback. The new Azeri offers, when they come, will be crucial. New offers that again show little or no real, substantive progress on opening commercial markets could force the United States, other Working Party Members and the WTO Secretariat to move resources to other priorities, potentially delaying the accession process. End.

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